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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

WAG ACQUISITION, L.L.C.,

Plaintiff,

v.

FRIENDFINDER NETWORKS INC.,
STREAMRAY INC., and DOES 1-20,

Defendants.

Civil Action No.: 2:14-CV-03456-ES-JAD

MOTION DATE: AUGUST 18, 2014

BRIEF IN OPPOSITION TO
DEFENDANTS' MOTION FOR DISMISSAL UNDER RULE 12(B)(6)

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ARGUMENT

Plaintiff WAG ACQUISITION, LLC files this brief in opposition to Defendants FriendFinder Networks Inc. and Streamray Inc.'s Motion for Dismissal Under Rule 12(b)(6) [Dkt. No. 10] (the "Motion") against certain allegations of Plaintiff's Complaint filed on May 30, 2014 [Dkt. No. 1].¹

On July 8, 2014, Defendants filed their Motion, which was set to be heard before this Court on August 4, 2014. Plaintiff filed a letter for an automatic extension of the motion day to August 18, 2014. *See* L. Civ. R. 7.1(d)(5).

On July 29, 2014, Plaintiff filed a First Amended Complaint. [Dkt. No. 12]. "An amended complaint supersedes the original version in providing the blueprint for the future course of a lawsuit." *Snyder v. Pascack Valley Hosp.*, 303 F.3d 271, 276 (3d Cir. 2002). Accordingly, Defendants' Motion is moot and should be denied without prejudice. *See, e.g., St. Clair v. Citizens Fin. Grp.*, No. 08-1257 (JBS), 2008 U.S. Dist. LEXIS 92135, at *3, n.3 (D.N.J. Nov. 12, 2008) ("because Plaintiff has submitted an amended complaint, Defendants' initial motion to dismiss is deemed moot"); *Hailstalk v. Antique Auto Classic Car Storage, LLC*, No. 07-5195 (NLH), 2008 U.S. Dist. LEXIS 68016, at *4, n.2 (D.N.J. Sept. 9, 2008) ("Since an amended complaint supersedes the original complaint, the motion to dismiss the original complaint will be denied as moot"); *Croker v. Applic Consumer Prods., Inc.*, No. 05-3054 (RBK), 2006 U.S. Dist. LEXIS 14464, at *5-6 (D.N.J. Mar. 10, 2006) ("Accordingly, because Plaintiffs have now amended their Complaint, Defendants' motion to dismiss is moot and will be denied without prejudice. . . . Should Defendants find that Plaintiffs' Amended Complaint does not ameliorate the alleged deficiencies, Defendants may file new motions to dismiss as they

¹ WAG Acquisitions, LLC believes that its May 30, 2014 Complaint was pled with sufficient specificity to defeat Defendants' Motion for Dismissal; however, in an effort to expedite the progress of this case and conserve judicial resources, Plaintiff has amended its Complaint [Dkt. No. 12].

pertain to the Amended Complaint”).

CONCLUSION

Plaintiff therefore respectfully requests that this Court declare that Defendants’ Motion is moot and deny the Motion without prejudice.

Dated: July 29, 2014

Respectfully submitted,

LEWIS BAACH PLLC

By: /s/ Ronald Abramson

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CERTIFICATE OF SERVICE

On this 29th day of July, 2014, I certify that I caused a copy of the foregoing Brief in Opposition to Defendants' Motion for Dismissal Under Rule 12(b)(6) to be served upon counsel for Defendants via the Court's ECF filing system.

s/ Ronald Abramson
Ronald Abramson

Dated: July 29, 2014